

No. 10757

IN THE

United States Circuit Court of Appeals

FOR THE NINTH CIRCUIT

WM. L. GLADSTONE and H. H. HARRISON, Trustees for
Psychic Spiritual Science Church, a trust estate,
Appellants,

vs.

MARY GALTON and RAY L. CHESEBRO, City Attorney for
the City of Los Angeles, State of California,
Appellees.

WM. L. GLADSTONE and H. H. HARRISON, Trustees for
Psychic Spiritual Science Church, a trust estate,
Complainants,

vs.

MARY GALTON and RAY L. CHESEBRO, City Attorney for
the City of Los Angeles, State of California,
Defendants.

BRIEF OF APPELLANTS

In Support of Appellants' Bill of Complaint in Equity,
Exhibits A and B, Attached to Said Bill; Objec-
tion to Motion to Dismiss; and All Other Portions
of the Transcript of Record, Which Were Writ-
ten by Counsel for Complainants in Behalf of
Complainants.

Upon Appeal from the District Court of the United States
for the Southern District of California,
Central Division

C. A. STICE,

1314 Washington Building, Los Angeles 13,
Attorney for Complainants.

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Appellees.

BRIEF OF APPELLANTS.

Statement of the Case.

This is an appeal from a judgment of dismissal made and entered on February 28, 1944, by the District Court of the United States for the Southern District of California, Central Division, in the above entitled cause and action. [Tr. of Record p. 45.]

The bill of complaint in equity shows that the complainants are trustees for the Psychic Spiritual Science Church, a trust estate, and that one of the complainants, Wm. L. Gladstone, has for the past fourteen years acted as Pastor for the said Church, which was organized under the provisions of the Constitution of the United States of America, as provided under a contract by and between the said trustees.

The bill of complaint in equity further shows that during the month of June, 1943, that the aforesaid Wm. L. Gladstone while acting as Trustee and Pastor for said Church was arrested by the aforesaid defendant, Mary Galton, a woman police officer for the City of Los Angeles, State of California, and the said Mary Galton escorted the said Wm. L. Gladstone to jail where bond was furnished by Wm. L. Gladstone for appearance in the Municipal Court of the City of Los Angeles, State of California, and on or about May 17, 1943, in case No. 18711, Municipal Court of the City of Los Angeles, State of California, the said Wm. L. Gladstone through the inadvertance and inadvertant advice of counsel pled guilty to the charge made against him and was fined one hundred (\$100.00) dollars, which the said Wm. L. Gladstone paid in said case No. 18711 before the said Municipal Court. [Tr. of Record p. 5.]

The bill of complaint in equity further shows, that on or about October 28, 1943, that the aforesaid defendant Mary Galton again arrested the aforesaid Wm. L. Gladstone and escorted him to jail, where he was compelled to deposit a bond in the sum of five hundred (\$500.00) dollars for appearance in case No. 21239, in aforesaid Municipal Court of the City of Los Angeles, State of California [Tr. of Record p. 5], and further the bill shows that the said defendant Mary Galton during services in aforesaid Church of which the said Wm. L. Gladstone is Pastor, arrested a guest minister while the said minister was preaching from the pulpit to the congregation of said

Church during services in said Church on or about during the month of June, 1943, and the said three arrests, two of Wm. L. Gladstone the Pastor, and one of the said guest minister, was made by the said defendant Mary Galton for the sole purpose to destroy the said Church, and since copyrighted works and a Bible for said Church entitled, "Spiritualism and a Guide to Mediumship," was compiled from the Holy Bible and Holy Scriptures and written by the said Wm. L. Gladstone, which was also copyrighted and used exclusively by the said Church, a destruction of the said Church would be the destruction of said copyrights, and the said Wm. L. Gladstone as the bibliographer, has from time to time and recently written and compiled many manuscripts which are used as a text in the said Church, and said manuscripts and work are all founded upon the Holy Scriptures of the Holy Bible which are the bibliography of said book, manuscripts and works as compiled, and as such are protected by the Copyright Act of the United States of America, and regardless of said Copyright Act, and ignoring the said Copyright Act, the aforesaid defendant Mary Galton has continued her campaign of persecution by and through the aforesaid numerous arrests in her endeavor to not only deprive the said Wm. L. Gladstone of his rights as a citizen, his liberty, and also to destroy his Church, and thereby destroy the said copyrights and copyrighted works, contrary to the provisions of the Copyright Act and the Constitution of the United States of America.

The said defendant Mary Galton also took from the office of said Church by illegal confiscation [Tr. of Record

p. 13] copyrighted works and trustees' records, for the purpose to use same as evidence [Tr. of Record p. 37] against the said Wm. L. Gladstone in her campaign of persecution against the said Wm. L. Gladstone and the aforesaid Church, all of which is positively prohibited by the Constitution of the United States.

The defendants in this action made motions to dismiss bill of complaint in equity [Tr. of Record p. 24], which was granted by the District Court below, therefore this appeal is being taken to the United States Circuit Court of Appeals, Ninth Circuit, upon the ground herein set forth and that the Chapter 4, Article 3, Section 43.30 and Section 43.31 [Tr. of Record pp. 6-8], are unconstitutional, and in violation of the Constitution of the United States of America. Aforesaid arrests were made and prosecuted under the provisions of said Sections 43.30 and 43.31 of the said Chapter 4, Article 3, of the Municipal Code of the City of Los Angeles, State of California.

ARGUMENT.

Points and Authorities in Support of Argument.

I.

In the statement of points as filed by appellants Wm. L. Gladstone and H. H. Harrison, Trustees for Spiritual Psychic Science Church, a trust estate; under Point 1 [Tr. of Record p. 50] it will be noted that the District Court of the United States has jurisdiction, as a copyright is involved in the above entitled cause and action, as under a federal statute the District Courts of the United States have original and exclusive jurisdiction over matters wherein the Copyright Act and a copyright are involved, such as set forth in the bill of complaint in equity [Tr. of Record p. 12], and the destruction of the said Church, as set forth in bill of complaint in equity [Tr. of Record pp. 7 to 11 incl.], also destroys the copyrighted book and manuscripts used as a text exclusively by the ministers and members of the said Church; therefore, through the foregoing system of destruction as used by the defendant Mary Galton, the copyrighted matters belonging to the complainants become worthless through destruction; and the aforesaid complainants use as a text in their Church the aforesaid copyrighted book and works which the aforesaid Pastor, Wm. L. Gladstone, as the bibliographer, compiled from the Holy Scriptures of the Holy Bible, the word of God, and the Constitution of the United States being a God inspired document, provides:

*Constitution, U. S. A., Article I, Section 8,
Clause 8,*

which reads as follows:

“The Congress shall have power . . . To promote the Progress of Science and Useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.”

Copyrights are obtained to the extent which Congress has authorized it, as a copyright exists in the United States wholly on the legislation of Congress:

Banks v. Manchester, 128 U. S. 252;

Wheaton v. Peters, 8 Pet. 591 (U. S.).

The power granted to Congress by the aforesaid Clause 8 of the Constitution in the case of

Brown v. Duchesne, 19 How. 195,

the Court said:

“is domestic in its character and necessarily confined within the limits of the United States.”

The defendant Mary Galton has exercised police power of the City of Los Angeles by making numerous arrests as set forth in the bill of complaint in equity, to destroy the aforesaid Church which automatically destroys the aforesaid copyrights, and no State can limit, control or exercise the power given by the said Clause 8 of the Constitution; it is the exclusive power of Congress, and in relation to the exclusive power of Congress relative to copyrights, the exclusive power of Congress has been upheld by the Supreme Court of the United States in the case of

Woolen v. Banker, 2 Plipp. (U. S.) 33.

The said Clause 8 of the Constitution, in relation to limited times, contemplates that the exclusive right of authors and inventors to their respective writings and discoveries shall exist for a limited time or period, and that the period shall be subject to the discretion of Congress:

Pennock v. Dialogue, 2 Pet. 15;

Evans v. Eaton, 3 Wheat. 454.

The aforesaid defendant Mary Galton upon making the aforesaid arrests as set forth in the bill of complaint in equity in this cause and action, show that she took unlawfully at the time she made the said arrests, copyrighted works of complainants for the purpose of destruction of same by using the same for the sole purpose of evidence upon which to convict [Tr. of Record pp. 12 to 13 incl.] the Pastor, Wm. L. Gladstone, of said Church [see Tr. of Record, par. IX, pp. 36 and 37], and the Copyright law of the United States is very explicit in its determination of such procedure as has been adopted by the said defendant Mary Galton, as the said federal law provides for damages:

Copyrights, Title 17, Section 2,

which provides as follows:

“Nothing in this title shall be construed to annul or limit the right of the author or proprietor of an unpublished work, at common law or in equity, to prevent the copying, publication, or use of such unpublished work without his consent, and to obtain damages therefor. (Mar. 4, 1909, c. 320, Sec. 2, 35 Stat. 1076.)”

And complainants have many component parts of copyrighted work which have been written and compiled from

time to time which are used in the text of their aforesaid Church, and the Copyright Act of the United States provides as follows:

Copyrights, Title 17, Section 3,

which reads as follows:

“The copyright provided by this title shall protect all the copyrightable component parts of the work copyrighted, and all matter therein in which copyright is already subsisting, but without extending the duration of scope of each copyright. The copyright upon composite works or periodicals shall give to the proprietor thereof all the rights in respect thereto which he would have if each were individually copyrighted under this title. (Mar. 4, 1909, c. 320, Sec. 3, 35 Stat. 1076.)”

And the copyrights of complainants were under the protection of the Copyright Act, as it was less than twenty-eight years since the aforesaid copyrights were granted, and the copyrights were secured under the provisions of Title 17, Copyrights, which shall have a duration of twenty-eight years and may be renewed for a like period:

Copyrights, Title 17, Section 23 (Mar. 4, 1909, c. 320, Sec. 23, 35 Stat. 1080).

And subsisting copyrights may be renewed:

Copyrights, Title 17, Section 24 (R. S. Sec. 4953; Mar. 4, 1909, c. 320, Sec. 24, 64, 35 Stat. 1080, 1088; R. S. Sec. 4953, from Act July 8, 1870, c. 230, Sec. 87, 16 Stat. 212).

And under aforesaid point 1 [Tr. of Record p. 51] it points out that the District Court below made no mention and rendered no ruling on the rights of complainants under

the Copyright Act, other than a judgment of dismissal, and the District Court below ruled that the bill of complaint in equity does not state facts sufficient to constitute a cause of action, which complainants contend is a denial of due process of law by the District Court below in denying complainants' copyright rights and not considering the facts as set forth in the bill of complaint in equity:

The essential element of due process of law is an opportunity to be heard, and a necessary condition of such opportunity is notice:

Jacob v. Roberts, 223 U. S. 45, 68 (1932).

That to condemn without a hearing is repugnant to the due process clause of the Fourteenth Amendment needs nothing but statement:

Riverside & Dan River Cotton Mills v. Menefee, 237 U. S. 189, 193 (1915).

Even before the Fourteenth Amendment was adopted the Supreme Court had stated that it was a "great fundamental rule in the administration of justice . . . that every one shall have an opportunity of defending his rights before judgment is pronounced against him:"

Smith v. McCann, 24 How. 398, 407 (1861).

All actions, suits, or proceedings arising under the copyright laws of the United States shall be originally cognizable by the district courts of the United States, etc., etc.

Copyrights, Title 17, Section 34 (Mar. 4, 1909, c. 320, Sec. 34, 35 Stat. 1084; Mar. 3, 1911, c. 231, Sec. 24, 36 Stat. 1092; May 17, 1932, c. 190, 47 Stat. 158).

Civil actions, suits, or proceedings arising under this title may be instituted in the district court of which the defendant or his agent is an inhabitant, or in which he may be found:

Copyrights, Title 17, Section 35 (Mar. 4, 1909, c. 320, Sec. 35, 35 Stat. 1084).

Any such court or judge thereof shall have power, upon bill in equity filed by any party aggrieved, to grant injunctions to prevent and restrain the violation of any right secured by this title, according to the course and principles of courts of equity, on such terms as said court may deem reasonable. Any injunction that may be granted restraining and enjoining the doing of anything forbidden by this title may be served on the parties against whom such injunction may be granted anywhere in the United States and be enforceable by proceedings in contempt or otherwise by any other court or judge possessing jurisdiction of the defendants:

Copyrights, Title 17, Section 36 (Mar. 4, 1909, c. 320, Sec. 36, 35 Stat. 1084).

Copyright secured under title or previous copyright laws of the United States may be assigned, granted, or mortgaged by an instrument in writing signed by the proprietor of the copyright, or may be bequeathed by will:

Copyrights, Title 17, Section 42 (Mar. 4, 1909, c. 320, Sec. 42, 33 Stat. 1084).

II.

Complainants in their points filed as a statement of points, under points 2 to 6 [Tr. of Record, point 2, pp. 51 to 56 incl.], the District Court below in making and entering judgment of dismissal in favor of defendants and against complainants, the said judgment is a denial of equal protection of the laws as provided under the Constitution of the United States, as complainants in the bill of complaint in equity show that they have been penalized under the provisions of Sections 43.30 and 43.31 of Chapter 4, Article 3, of the Municipal Code of the City of Los Angeles, State of California [Tr. of Record, par. 9, pp. 6 to 9 incl.], which said sections are unconstitutional because of being discriminating legislation, as it grants certain exclusive privileges to certain parties and denies such exclusive privileges to complainants, which is a violation of the Constitution of the United States:

Constitution, U. S. A., Article XIV (Fourteenth Amendment).

The aforesaid Sections 43.30 and 43.31 of the aforesaid Chapter 4, Article 3, of the Municipal Code of the City of Los Angeles, State of California, under which said sections the aforesaid defendant Mary Galton made the aforesaid arrests of Wm. L. Gladstone, Pastor of the aforesaid Church, and the said Sections 43.30 and 43.31 are unconstitutional because the said sections exempt certain groups and corporations from the provisions of said Section 43.30 under the provisions of exemptions as provided in said Section 43.31, which grants certain groups

and corporations an exclusive special privilege to the extent that it is discriminating legislation in that it grants a monopolistic monopoly to certain groups and denies the same privilege to complainants, and thereby denies equal protection of the laws to complainants (Fourteenth Amendment to Constitution, U. S. A.), and the said Sections 43.30 and 43.31 are used for the purpose of the destruction of complainants' aforesaid Church, and the Supreme Court has held that such legislation is unconstitutional and repugnant to the Constitution of the United States:

Gibbons v. Ogden, 9 Wheat. 1,

and Mr. Chief Justice John Marshall delivered the opinion of the court, and, after stating the case, proceeded as follows:

“The appellant contends that this decree is erroneous, because the laws which purport to give the exclusive privilege it sustains, are repugnant to the Constitution and laws of the United States.”

And likewise ruled and held in a similar case, the case of

Brown v. Maryland, 12 Wheat. 419.

In opposition to the unconstitutional Sections 43.30 and 43.31 as aforesaid, the Constitution of the United States provides for equal protection of the laws:

Constitution, U. S. A., Fourteenth Amendment, and further for equal protection of the laws the Constitution of the United States provides:

Constitution, U. S. A., Article VI, Clause 2,

it reads as follows:

“This Constitution and the laws of the United States which shall be made in pursuance thereof and all treaties made, or which shall be made, under the

authority of the United States, shall be the Supreme law of the land, and the judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.”

And under the provisions of said Article VI of the Constitution we find to this end it was necessary to make the Constitution the paramount law of the land:

Prigg v. Pennsylvania, 16 Pet. 539, 628,

and this necessity arising from the nature of the Federal Government, is reenforced by the specific declaration of said Article VI of the Constitution of the United States:

McCulloch v. Maryland, 4 Wheat. 316, 405,

and the Constitution is supreme over all departments of the National Government and, to the extent of the powers delegated there, over all who made themselves parties to it, States as well as persons, and so held in the case of

Farrington v. Tennessee, 95 U. S. 679, 685.

And in a case of unconstitutional law and procedure, such as has been used by the aforesaid defendant Mary Galton in the aforesaid arrests and hearings in the Municipal Court of the City of Los Angeles, State of California, under the provisions of the aforesaid Sections 43.30 and 43.31 of Chapter 4, Article 3, of the Municipal Code of the City of Los Angeles, State of California, and the prosecutions and persecutions unlawfully as set forth in the bill of complaint in equity hereof in this cause and action in the District Court below [Tr. of Record pp. 5 to 13 incl.], under the said unconstitutional Sections 43.30 and 43.31 of said Municipal Code, the United States Supreme Court has ruled and held in the case of

Mauran v. Insurance Co., 6 Wall. (U. S.) 1, 13,
the court said:

“For what is unconstitutional is illegal and void, so far as law is concerned, all void. To give such laws any validity would be to justify, so far as such laws went, the abortive attempt to overthrow the Constitution itself; the Constitution of the United States, which is the fundamental law of the nation and each State, not only affords no authority for illegal proceedings, but prohibits any kind of illegal procedure.”

III.

The bill of complaint in equity shows that the contract under which the complainants organized the Psychic Spiritual Science Church was made and entered into on March 1, 1934, and the aforesaid Sections 43.30 and 43.31 of the Municipal Code of the City of Los Angeles, State of California, became effective November 12, 1936, and complainant Pastor Wm. L. Gladstone was arrested by the aforesaid defendant Mary Galton during the month of June, 1943, and said defendant Mary Galton again arrested said Pastor on or about October 28, 1943, and the said Mary Galton during the month of June, 1943, also again arrested a guest minister at said Church during Church service, and thereby the said Mary Galton violated complainants' rights as provided by the Constitution of the United States, which prohibits impairing the obligations of contracts:

Constitution, U. S. A., Article I, Section 10,
Clause 1.

It is an impairment of the obligation of a contract, for a law which imposes new terms or alters the terms of a contract by imposing new conditions, or disposing with

those expressed, and the aforesaid Sections 43.30 and 43.31 impair and impose new terms on the contract under which complainants have organized their said Church prior to the passage of the said sections of the Municipal Code of the City of Los Angeles, State of California, and so held in the case of

State Tax on Foreign-Held Bonds, 15 Wall.
(U. S.) 320.

In the case of

Farrington v. Tennessee, 95 U. S. 683,

the court said:

“The amount of the impairment of the obligation is immaterial. If there be any, it is sufficient to bring into activity the constitutional provision and the judicial power of the court to redress the wrong.”

And a new law which imposes new conditions or disposes with those expressed in a contract is an impairment of the obligations of a contract:

Sturgis v. Crowninshield, 4 Wheat. 197;

McGahey v. Virginia, 135 U. S. 603.

Under the Constitution of the United States the obligation of a contract is not to be impaired at all. It is not a question of degree, manner, or cause, but of encroaching in any respect on its obligation, dispensing with any part of its force; and any deviation by postponement or acceleration of the period of performance, or imposing conditions not expressed, or dispensing with those expressed, is a violation of the obligation. The slightest variation of the obligation impairs it to that extent and is unconstitutional, and the aforesaid sections of the aforesaid Mu-

municipal Code of the City of Los Angeles, State of California, impairs the obligation of the contract under which the aforesaid Church of the complainants is organized, and so held in the cases of

McCracken v. Hayward, 2 How. 608;

Ogden v. Saunders, 12 Wheat. 213;

Antonio v. Greenhow, 107 U. S. 797.

The impairment of contracts may not be accomplished by judicial decisions or by legislative enactments:

Pine Grove v. Talcott, 19 Wall. 665;

Union Bank v. Geary, 5 Pet. 99;

Houston etc. R. Co. v. Texas, 177 U. S. 66.

IV.

The trustees' organization under which the aforesaid Church is organized is by a contract under the provisions of the Constitution of the United States; common law rights of contract and citizenship, and the right to create and establish a trust estate, has been recognized in all history of law in the United States and England, beginning during the reign of King Henry VIII in England in the year A. D. 1536, and up to and including the present time, in the sustaining of Common Law Rights of Contract and under the provisions of the Constitution of the United States, and in England such rights were enacted by Parliament in statute as follows:

Statute of Uses, England 27, Henry VIII, c. 10,
A. D. 1536.

And a court ruling of the United States Court, which upholds the right to create and establish a trust estate by

contract, is a ruling wherein Federal Justice Gresham, in case

27 Fed. 149,

the Honorable Court said:

“A citizen of the United States cannot be denied the RIGHT to take and hold absolutely in trust, real and personal property in any State in the Union, nor can he be denied the RIGHT TO ACCEPT CONVEYANCE IN TRUST for his sole benefit or for the benefit of himself and others. This RIGHT is incident to NATIONAL CITIZENSHIP.”

And a trust estate established by contract by and between the trustees and complainants, the Supreme Court of the United States and other courts have ruled and held that it is proper for a person establishing a trust estate to himself and others and to become the trustee:

Adams v. Adams, 21 Wall. 185, 22 L. Ed. 504;

Morgan v. Malleeson, L. R. 10 Eq. 475, 39 L. J. Ch. 680, 23 L. T. Rep. N. S. 336, 18 Wkly. Rep. 1125;

Cahlan v. Lassen County Bank, 11 Cal. App. 533, 105 Pac. 765.

The civil rights of complainants have been violated, and a civil right of any pecuniary nature is a property right and equity will protect such right:

Re Sawyer, 124 U. S. 200, 210 (8 Sup. Ct. 482), 31 L. Ed. 402, 409;

Talbot v. Seeman (Cranch. 1), U. S. Reps. 5.

A trust estate organization under which complainants are organized is a law that is binding because of imme-

morial usage and universal reception, often in distinction from statute law:

Elliot v. Freeman, 220 U. S. 178;

Smith v. Anderson, 15 Ch. 247.

The court will support the trustees in carrying out the terms of their trust agreement and contract:

Clews v. Jamison, 182 U. S. 461, 21 Sup. Ct. 845,
45 L. Ed. 1185;

and the creator of the trust estate may make its duration discretionary with the trustees:

Cutter v. Hardy, 48 Cal. 568,

which said ruling in the case of *Cutter v. Hardy* is supported by the Constitution of the United States:

Constitution, U. S. A., Article I, Section 10,
Clause 1.

And any law or order in opposition to the Constitution of the United States is inoperative:

Cooley's Constitutional Limitations, 4th Ed. 56
(*45);

Cooley's Constitutional Limitations and cases cited,
p. 159 *et seq.*

And it has been ruled and held that the creation and establishment of a trust estate is a very simple matter:

Evansville Bank v. German American Bank, 155
U. S. 556.

V.

The bill of complaint in equity shows that the defendant Mary Galton made several arrests at close proximity of time, and when she made those arrests she took trustees' records [Tr. of Record p. 36, par. IX] itemized by defendants as 1 bundle of lesson sheets, and trustees' records are not subject to confiscation as evidence, review or subpoena *duces tecum*, which has been so ruled and held by the Supreme Court of the United States:

Boyd v. United States, 116 U. S. 112;

Silverthorne v. United States, 251 U. S. 395.

Trust estates are creatures of equity:

Hopkins v. Hopkins, 1739 West Hardwicke 605,
per Lord Chancellor Hardwicke.

The equitable jurisdiction to trust estates has been extended so as to embrace relations of a fiduciary character:

Clews v. Jamieson, 182 U. S. 461, 21 Sup. Ct. 845,
45 L. Ed. 1185.

A trust estate being a creature of equity, and so defined by the highest courts of equity of both the United States and England, and another distinction is that of legal and equitable jurisdiction, the former pertaining to rights conferred by law, unwritten or enacted; the latter to equitable rights supplementing the legal, and, in theory at least, correcting the inequalities of the law, and supplying their deficiencies. These branches are so distinct that no subsequent action at law will lie on a decree in equity:

Hugh v. Higgs, 2 Wheat. 697.

The aforesaid complainant, trustee and Pastor, Wm. L. Gladstone, has pursued the work of God as his calling during his past life for many years, having in 1916 written his own textbook and copyrighted same under the copyright laws of the United States, and the right of a citizen to pursue any calling, business, or profession he may choose is held to be a property right within the protection of a court of equity:

New Method Laundry Co. v. MacCann, 174 Cal.
25, 161 P. 990, Ann. Cas. 1918C 1022.

VI.

The very principle and essence of the Constitution of the United States, in so far as application to citizens are concerned, have been very definitely determined in an outstanding ruling of the Supreme Court of the United States in the case of

Marbury v. Madison (Cranch. 1), U. S. Rep. 5,
wherein Mr. Chief Justice John Marshall said at page 58:

“The very essence of civil liberty certainly consists in the right of every individual to claim the protection of the law; whenever he receives an injury, one of the first duties of government is to afford that protection.”

At page 69:

“Certainly all those who have framed Constitutions, contemplate them as forming the fundamental and paramount law of the nation, and, consequently, the theory of every such government must be, that an Act of the Legislature repugnant to the Constitution is void.”

At page 59:

“The government of the United States has been emphatically termed a government of laws, and not of men; it will certainly cease to deserve that high appellation if the laws furnish no remedy for a vested right.”

VII.

Interference with property rights such as is the case of complainants hereof, a temporary injunction formerly issued by a court of equity sitting, is made a perpetual and permanent injunction:

United States v. Elliot, 62 Fed. 201, 64 Fed. 27;

Anti-Trust Decisions of the United States, July 2, 1890, to January 1, 1918, pp. 26-29;

United States v. Elliott et al., 3811, Injunction.

And in such a case as complainants hereof, where a law is alleged to be unconstitutional, which will cause destruction of property and property rights, it is proper for temporary restraining order to be issued, and so issued in the case of

Amalgamated Oil Corp. v. San Francisco, 263 Fed. 617;

and rights of injunction may be granted by any judge of the District Court in cases where they might be granted by such judge of said court:

Judicial Code and Judiciary, Title 28, Section 378 (Judicial Code, Section 264).

Conclusion.

The Transcript of Record and the foregoing points and authorities clearly set forth the matters involved in this cause and action; therefore, appellants pray that the judgment of the District Court below be reversed and the matter remanded to the said District Court for hearing in keeping with the matters set forth in the record hereof.

Dated Los Angeles, California, June 26, 1944.

Respectfully Submitted,

C. A. STICE,

Attorney for Complainants.